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| 10/712,289 | 11/13/2003 | Samuel H. Russ | A-8753 | 9338 |

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| EXAMINER | |
|---|---|
| SCHNURR, JOHN R | |
| ART UNIT | PAPER NUMBER |
| 2421 | |

| NOTIFICATION DATE | DELIVERY MODE |
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| 04/15/2009 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOmail@sciatl.com

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/712,289 | RUSS ET AL. | |
| | Examiner | Art Unit | |
| | JOHN R. SCHNURR | 2421 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *29 January 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *16-21,23,24,26 and 27* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *16-21, 23, 24, 26 and 27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

1. This Office Action is in response to the Amendment After Non-Final Rejection filed 01/29/2009. Claims 16-21, 23, 24, 26 and 27 are pending and have been examined.

### *Response to Arguments*

2. Applicant's arguments filed 01/29/2009 have been fully considered but they are not persuasive.

In response to applicant's arguments (Remarks pgs. 6-10) against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's arguments (Remarks pgs. 10-11) that the combination of Naden (WO 01/56297) and Kliger (US 2004/0177381) does not disclose, "a modulator configured to modulate the stored multimedia signals prior to supplying the stored multimedia signals to the switch," the examiner respectfully disagrees. Naden clearly teaches modulating stored multimedia signals prior to distribution over the network (pg. 9 lines 7-17 and pg. 11 lines 22-25). Kliger teaches modulating stored multimedia signals to frequencies above 960 MHz prior to sending the signals to the switch for distribution to the network ([0023]).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims **16-21, 23, 24, 26 and 27** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Naden (WO 01/56297)** in view of **Kliger et al. (US 2004/0177381)**, herein Kliger.

Consider **claim 16**, Naden clearly teaches a networked system, comprising:

a switch configured to receive multimedia signals originating from a remote source; **(Fig. 2: RF switch 202 receives multimedia signals from satellite receivers, pg. 6 lines 26-27.)**

a first receiving device configured to control the switch to selectively receive at least a portion of the multimedia signals from the switch, the first receiving device being configured to process received multimedia signals to generate output signals for presentation on a first local device, **(Fig. 2: Local set interface 216 controls the output of switch 202, pg. 7 lines 1-11.)** the first receiving device comprising a storage device configured to selectively store multimedia signals received from the switch, **((Fig. 4: Video memory system 402 is disposed in master set top box 110', pg. 11 line 22 to pg. 12 line 25.)**

a second receiving device configured to control the switch to selectively receive via the switch at least a portion of the multimedia signals originating from a remote source **(Fig. 2: Slave set top boxes 116 controls the output of switch 202, pg. 7 lines 1-11.)** and to selectively receive at least a portion of the stored multimedia signals from the first receiving device, the second receiving device being configured to process received multimedia signals to generate output signals for presentation on a second local device. **(Fig. 4: Video memory system 402 is disposed in master set top box 110' and provides recorded video to the slave set top boxes upon request, pg. 11 line 22 to pg. 12 line 25.)**

Naden further teaches modulating stored multimedia signals prior to distribution over the network (pg. 9 lines 7-17 and pg. 11 lines 22-25). However, Naden does not explicitly teach the first receiving device supplying modulated stored multimedia signals to the second receiving device via the switch.

In an analogous art, Kliger, which discloses a local multimedia network, clearly teaches the first receiving device supplying modulated stored multimedia signals to the second receiving device via a network entry point. **(Fig. 2: Home media server 24 provides modulated recoded multimedia to thin clients 28 via splitter 14, [0020]-[0023].)**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Naden by transmitting modulated stored multimedia signals from the first receiving device to the second receiving device via the switch, as taught by Kliger, for the benefit of providing stored multimedia signals to legacy set top boxes ([0020] Kliger).

Consider **claim 17**, Naden combined with Kliger, as in claim 16, clearly teaches the remote source is a satellite. **(pg. 4 lines 14-23 Naden)**

Consider **claim 18**, Naden combined with Kliger, as in claim 16, clearly teaches the first receiving device is a digital home communications system (DHCT). **(Fig. 2 MSTB 110 Naden)**

Consider **claim 19**, Naden combined with Kliger, as in claim 16, clearly teaches the second receiving device is one of a plurality of second receiving devices, **(Fig. 1 SSTBs 116 Naden)** each configured to control the switch to selectively receive via the switch multimedia signals from the remote source **(Fig. 2: SSTBs 116 control the output of switch 202, pg. 7 lines 1-11 Naden.)** and to selectively receive via the switch **(Fig. 2: Home media server 24 provides recoded multimedia to thin clients 28 via splitter 14, [0020] Kliger.)** stored multimedia signals from the first receiving device. **(Fig. 4: Video memory system 402 is disposed in master set top box 110' and provides recorded video to the slave set top boxes upon request, pg. 11 line 22 to pg. 12 line 25 Naden.)**

Consider **claim 20**, Naden combined with Kliger, as in claim 16, clearly teaches the second receiving device is a digital home communications system (DHCT). **(Fig. 3 SSTB 116 Naden)**

Consider **claim 21**, Naden combined with Kliger, as in claim 16, clearly teaches the switch routes multimedia signals based on at least one of polarization and frequency of the multimedia signals, **(pg. 7 lines 4-11 Naden)** wherein the first receiving device supplies the stored multimedia signals to the switch with a

polarization or frequency that is different from a polarization or frequency of the multimedia signals from the remote source. **(Fig. 5: Signals from VMS 402 are sent through wireless protocol converter 212 and base station transceiver 214 where they are modulated, pg. 9 lines 7-17 and pg. 11 lines 22-25 Naden.)**

Consider **claim 23**, Naden clearly teaches a satellite communications system for transmitting downstream satellite signals from a satellite transponder to a satellite receiver, the satellite signals being transmitted with a plurality of frequencies and polarizations, the system comprising:

a satellite receiver configured to receive the downstream satellite signals; **(Fig. 1: Dish antennas 102-1 to 102-N receive satellite signals, pg. 4 lines 14-23.)**

a switch configured to route the downstream satellite signals according to frequency and polarization; **(Fig. 2: RF switch 202 receives multimedia signals from satellite receivers, pg. 6 lines 26-27. Signals are selected based on polarization and frequency, pg. 5 lines 2-7 and pg. 7 lines 4-11.)**

a first digital home communications system (DHCT) comprising a modulator, the first DHCT being coupled to the switch and configured to process a portion of the downstream satellite signals in accordance with a tuned frequency and polarization, and configured to store and subsequently transmit requested presentations included in the downstream satellite signals, **(Fig. 4: Video memory system 402 is disposed in master set top box 110' and provides modulated recorded video to the slave set top boxes upon request, pg. 9 lines 7-17 and pg. 11 line 22 to pg. 12 line 25.)**

a second DHCT coupled to the switch and configured to process a portion of the downstream satellite signals in accordance with a tuned frequency and polarization, and configured to receive the requested presentations from the first DHCT. **(Fig. 4: Video memory system 402 is disposed in master set top box 110' and provides recorded video to the slave set top boxes upon request, pg. 11 line 22 to pg. 12 line 25.)**

However, Naden does not explicitly teach the first receiving device supplying the modulated stored multimedia signals to the second receiving device via the switch.

In an analogous art, Kliger, which discloses a local multimedia network, clearly teaches the first receiving device supplying the modulated stored multimedia

signals to the second receiving device via a network entry point. **(Fig. 2: Home media server 24 provides recoded multimedia to thin clients 28 via splitter 14, [0020]-[0023].)**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Naden by transmitting the modulated stored multimedia signals from the first receiving device to the second receiving device via the switch, as taught by Kliger, for the benefit of providing stored multimedia signals to legacy set top boxes ([0020] Kliger).

Consider **claim 24**, Naden combined with Kliger, as in claim 23, clearly teaches the received satellite signals and requested presentations are received and transmitted over a common port. **(pg. 9 lines 4-6 Naden)**

Consider **claim 26**, see claim 16.
Consider **claim 27**, see claim 21.

## *Conclusion*

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN R. SCHNURR whose telephone number is

(571)270-1458. The examiner can normally be reached on Monday - Friday, 8:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JOHN W. MILLER/
Supervisory Patent Examiner, Art Unit 2421

JRS